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Consumer product safety

Note by the UNCTAD secretariat

Executive summary

This note discusses some of the global consumer product safety issues, such as cross-border challenges stemming from the rise of the digital economy and the dumping of hazardous products in developing countries. It also provides information about existing initiatives at the regional and global levels to address consumer product safety and proposes issues for discussion by member States wishing to further explore this topic under the United Nations guidelines for consumer protection.

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Introduction

1. Since President John F. Kennedy delivered the Special message to the Congress on protecting the consumer interest in March 1962,[1] consumer product safety has gained international recognition as a prominent issue of consumer protection policy.[2]

2. The United Nations guidelines for consumer protection provide extensive guidance to assist countries in achieving and maintaining adequate protection of their population as consumers, bearing in mind that consumers should have the right of access to non-hazardous products. The liberalization of trade, coupled with the rapid expansion of the digital economy, has brought consumer product safety to the forefront of international cooperation efforts.

3. The Intergovernmental Group of Experts on Consumer Protection Law and Policy at its second session requested the UNCTAD secretariat "to prepare reports and studies, taking into account the input from member States and other relevant stakeholders, for the third session of the Intergovernmental Group of Experts" on, among other topics, consumer product safety.[3] The present note has benefited from contributions from member States.[4] It considers the current international framework for consumer protection safety under the guidelines, as well as some emerging issues on cross-border consumer product safety. Further, the note presents existing regional and global initiatives on international cooperation and proposes some questions for discussion at the third session of the Intergovernmental Group of Experts.

I. United Nations guidelines for consumer protection

4. The United Nations General Assembly reaffirmed the guidelines for consumer protection as a valuable set of principles for setting out the main characteristics of effective consumer protection legislation, enforcement institutions and redress systems, and for assisting interested Member States in formulating and enforcing domestic and regional laws, rules and regulations that are compatible with their own economic, social and environmental circumstances, as well as promoting international enforcement cooperation among Member States and encouraging the sharing of experiences in consumer protection. As set out in the guidelines, one of the legitimate needs that they are intended to meet is the protection of consumers from hazards to their health and safety.[5]

5. Box 1 reproduces section V.B on physical safety and section V.D on standards for the safety and quality of consumer goods and services, as set out in A/RES/70/186 (annex, paragraphs 16–19 and 33–35, respectively). This is currently the only internationally agreed legal instrument that addresses consumer protection and product safety. Despite their non-binding nature, the guidelines have been widely implemented by Member States.[6]

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[1] JF Kennedy, 1962, Special message to the Congress on protecting the consumer interest, 15 March.

[2] The Council of Europe Consumer Protection Charter, appended to resolution 543 (1973), also addressed "protection against physical damage due to unsafe products", establishing that "national legislation shall include general requirements for the safety of food, other products and services" and that "minimum standards shall be set and enforced, in order to eliminate or reduce, as far as possible, any risk of danger in the content of goods and the containers thereof, their handling and use". For effective protection against hazards to consumer health and safety, "goods and services offered to consumers must be such that, under normal or foreseeable conditions of use, they present no risk to the health or safety of consumers. There should be quick and simple procedures for withdrawing them from the market in the event of their presenting such risks. In general, consumers should be informed in an appropriate manner of any risk liable to result from a foreseeable use of goods and services..." (European Communities, 1975, Preliminary programme of the European Economic Community for a consumer protection and information policy, *Official Journal of the European Communities*, Vol. 18. C 92).

[3] TD/B/C.I/CPLP/9.

[4] Ibid.

[5] A/RES/70/186.

[6] TD/B/C.I/CPLP/23, para. 19, available at

6. Further, section V.K on measures relating to specific areas (paragraph 69) refers to safety as "product quality control" in relation to food, water and pharmaceuticals. The section also refers to standards from relevant international bodies, including the World Health Organization Codex Alimentarius, which are mentioned later in this note.

Box 1
United Nations guidelines for consumer protection

B. Physical safety

16. Member States should adopt or encourage the adoption of appropriate measures, including legal systems, safety regulations, national or international standards, voluntary standards and the maintenance of safety records to ensure that products are safe for either intended or normally foreseeable use.

17. Appropriate policies should ensure that goods produced by manufacturers are safe for either intended or normally foreseeable use. Those responsible for bringing goods to the market, in particular suppliers, exporters, importers, retailers and the like (hereinafter referred to as "distributors"), should ensure that while in their care these goods are not rendered unsafe through improper handling or storage and that while in their care they do not become hazardous through improper handling or storage. Consumers should be instructed in the proper use of goods and should be informed of the risks involved in intended or normally foreseeable use. Vital safety information should be conveyed to consumers by internationally understandable symbols wherever possible.

18. Appropriate policies should ensure that if manufacturers or distributors become aware of unforeseen hazards after products are placed on the market, they should notify the relevant authorities and, as appropriate, the public without delay. Member States should also consider ways of ensuring that consumers are properly informed of such hazards.

19. Member States should, where appropriate, adopt policies under which, if a product is found to be seriously defective and/or to constitute a substantial and severe hazard even when properly used, manufacturers and/or distributors should recall it and replace or modify it, or substitute another product for it. If it is not possible to do this within a reasonable period of time, the consumer should be adequately compensated.

D. Standards for the safety and quality of consumer goods and services

33. Member States should, as appropriate, formulate or promote the elaboration and implementation of standards, voluntary and other, at the national and international levels for the safety and quality of goods and services and give them appropriate publicity. National standards and regulations for product safety and quality should be reviewed from time to time in order to ensure that they conform, where possible, to generally accepted international standards.

34. Where a standard lower than the generally accepted international standard is being applied because of local economic conditions, every effort should be made to raise that standard as soon as possible.

35. Member States should encourage and ensure the availability of facilities to test and certify the safety, quality and performance of essential consumer goods and services.

Source: A/RES/70/186.

http://unctad.org/meetings/en/SessionalDocuments/ciclpd23_en.pdf (accessed 5 March 2018).

II. Defining a scope

7. Building on the guidelines, the UNCTAD *Manual on Consumer Protection*[7] aims to support developing countries and economies in transition in their choice of policies and to provide practical tools for policymakers in their efforts to enhance capacities while implementing consumer protection nationally and regionally. The Manual contains a chapter on product safety and liability. As stated therein, the main rationale underlying legislative and institutional frameworks on consumer product safety is that consumers need to be protected against unreasonable, unnecessary and preventable risks of injury from the foreseeable use of consumer products.

8. Therefore, comprehensive consumer protection statutes should extend to all consumer products, especially those that might become unsafe with age or use – be it normal or abusive. At the same time, attention should be paid to the upstream stages of the production process where intervention may be more effective in terms of scale, eliminating the need for large numbers of individual redress procedures.

9. The Manual details six basic components to establish a coherent and effective product safety system (policy), which are as follows: pre-market design, preparatory action, regulatory action and standards setting, monitoring action, corrective action and compensatory action. These components underline four important aspects of consumer product safety systems: the general safety requirement for businesses, market surveillance and law enforcement against infringers by public authorities, standards setting (mandatory or voluntary) and product liability to deal with defective products through recalls and bans, for example.

10. Ensuring the safety of food products is an essential component of consumer protection policies. As stated in A/RES/70/186, section V.K on food, paragraph 70, "when formulating national policies and plans with regard to food, Member States should take into account the need of all consumers for food security and should support and, as far as possible, adopt standards from the Food and Agriculture Organization of the United Nations[8] and the World Health Organization[9] Codex Alimentarius[10] or, in their absence, other generally accepted international food standards. Member States should maintain, develop or improve food safety measures, including, inter alia, safety criteria, food standards and dietary requirements, and effective monitoring, inspection and evaluation mechanisms".

11. Considering the specific nature of food product safety and the wide coverage it has received, this note focuses on non-food products and proposes the following definition of consumer products:

> Consumer products: Goods used by consumers on a daily or frequent basis, but excluding food, beverages, pharmaceutical and health care products, firearms, and equipment installed as permanent fixtures at locations other than private residences. Included in the scope, but not limited to these items, would be goods such as apparel, toys, vehicles, personal and home electronics, and home appliances.[11]

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[7] UNCTAD, 2017, *Manual on Consumer Protection* (United Nations publication, New York and Geneva).

[8] Food safety is a complex endeavour, not just because of the inherent risks associated with food production, but also because of the diverse nature of international food supply chains. See http://www.fao.org/food/food-safety-quality/about-us/pt/ (accessed 23 April 2018) and Institute of Medicine, 2009, The complexities of food safety and some strategic approaches being taken, in Institute of Medicine, 2009, *Managing Food Safety Practices from Farm to Table: Workshop Summary* (The National Academies Press, Washington, D.C.).

[9] See http://www.who.int/foodsafety/areas_work/food-standard/en/ (accessed 23 April 2018).

[10] The Codex Alimentarius aims to create harmonized international food standards to protect the health of consumers and ensure fair trade practices. See http://www.fao.org/fao-who-codexalimentarius/en/ (accessed 23 April 2018).

[11] Consumer Product Safety Commission, 2017, contribution provided by the United States for the purposes of the of this note.

12. This excludes pharmaceuticals and health-care products, as they are subject to specific rules and regulations and often supervised by sector-specific government authorities other than consumer protection agencies. However, product safety is a vast complex area that requires focusing on key categories of products and further research, as well as engaging with a broad range of stakeholders, to develop future work on this topic at the international level.[12]

13. The Intergovernmental Group of Experts may, therefore, wish to focus on non-food non-pharmaceutical consumer products and their safety.

III. Cross-border challenges and consumer safety product concerns for developing countries

14. The existence of different national standards can lead to a consumer product safety issue when products manufactured in a country are exported to markets where they do not meet mandatory or voluntary safety standards. Overseas retailers are often unaware of the relevant safety regulations applicable in export markets and do not necessarily pay due regard to the country where the consumer is located. They also overlook the challenges of domestic authorities in dealing with cross-border consumer safety issues. Consumer product safety concerns in a globalized and digitalized world exert pressure on existing national frameworks to find common ways to address key issues.

15. The safety of motor vehicles, a high value added product, is a priority worldwide, illustrating that product safety is indeed a global issue. Technical and legal motor vehicle safety requirements are mandatory due to the high level of risks entailed for pedestrians, drivers and passengers – particularly children.

16. Cross-border supply chains such as car manufacturers where production boasts an international array of auto parts are a classical example of a global product safety issue. Global supply chains can create or exacerbate safety risks and vulnerabilities, particularly when inconsistencies in product safety standard vary across jurisdictions.[13]

17. Headlines relating to global product safety issues in the car industry are common in today's world. For example, in February 2010, Toyota had to undertake a global recall of cars due to sticking accelerator pedals. This affected the carmaker's global supply chain, suspending sales in different regions of the world and shutting down manufacturing plans.[14] Most car manufacturers had been involved in product safety investigations, some of which have dealt with consumer fatalities, such as those associated with the Nissan Tsuru in Mexico.[15]

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[12] TD/B/C.I/CPLP/9.

[13] See https://www.consumerreports.org/cro/news/2016/05/everything-you-need-to-know-about-the-takata-air-bag-recall/index.htm (accessed 12 March 2018); for a detailed analysis of the automotive industry, see A Marucheck, N Greis, C Mena and L Cai, 2011, Product safety and security in the global supply chain: Issues, challenges and research opportunities, *Journal of Operations Management*, 29(7):707–720.

[14] Institute for Public Relations, 2011, The Toyota recall crisis: Media impact on Toyota's corporate brand reputation, Case background note, available at https://instituteforpr.org/wp-content/uploads/JFGRA-InfoTrend-case-study-ver-2.pdf (accessed 24 April 2018).

[15] The Nissan Tsuru was responsible for over 4,000 deaths in Mexico between 2007 and 2012 and received a zero-star safety review in tests conducted by the Global New Car Assessment Programme and the New Car Assessment Programme for Latin America and the Caribbean. After a strong campaign by the latter programme and consumer organizations, Nissan agreed to stop production of the Tsuru by May 2017. See Consumers International, 2018, Protecting consumers in a globalized world: Time for a global approach to product safety? https://www.consumersinternational.org/news-resources/blog/posts/a-global-approach-to-product-safety/ (accessed 23 April 2018).

18. The recent rise of the digital economy, particularly business-to-consumer e-commerce, has also brought safety challenges that may be potentially harmful to consumers. The Working Party on Consumer Product Safety of the Organization for Economic Cooperation and Development (OECD) has divided these challenges into three categories: banned and recalled products, inadequate product labelling and safety warnings, and products that do not meet voluntary or mandatory safety standards.[16]

19. The online purchase of banned products represents a cross-border problem that Governments are struggling to address. Virtual platforms, which are increasingly used to sell products prior to their sale at offline stores, may contribute to harming consumers across jurisdictions. In certain instances, this means the sale of unsafe products. Some consumer organizations, for example, argue that reward-based crowdfunding platforms may allow unsafe goods to enter the market in the absence of proper supervision by relevant authorities.[17]

20. Global product recalls are a cross-border challenge for many jurisdictions. In the online marketplace, product manufacturers face additional challenges in tracking the sale of recalled products, which are often available through multiple channels across countries. This has been the case in several instances[18] where recalled products are still offered online as second-hand goods.[19]

21. OECD found that consumers engaged in business-to-consumer transactions do not always have access to product labelling and safety warning information before online purchasing, affecting safety and consumer trust.[20] While domestic laws or industry-self regulations address these issues through mandatory disclosures or warning labels, they may not be applicable in an e-commerce context, or may be insufficient (foreign language labelling).[21]

22. An OECD survey found that non-compliance by businesses with safety standards at the cross-border level (88 per cent) is much higher than at the domestic level (44 per cent).[22] Another example is cross-border toy safety. Children's toys are available both online and offline, often raising product safety issues: The low barriers to entry into the sector mean that untested or dangerous products are frequently available in the marketplace.

23. Toy safety is another sector where cooperation is crucial, with manufacturers and between member State authorities, as illustrated by the guidelines for strengthening European Union–China toy safety (2006) and by the cooperation between the European Union and the United States.[23]

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[16] OECD, 2016, Online product safety: Trends and challenges, OECD Digital Economy Papers No. 261.

[17] Ibid.

[18] In 2013, the Australian Competition and Consumer Commission became aware of an offshore business that was supplying banned sky lanterns at an online marketplace. The Commission and the online marketplace worked together to remove the banned items from sale to Australian consumers. See Australian Competition and Consumer Commission, 2014, Consumer product safety online, 2014, available at https://www.accc.gov.au/system/files/Consumer%20product%20safety%20online.pdf (accessed 24 April 2018).

[19] In 2014, the United States Consumer Product and Safety Commission and a consumer electronic supplier detected that 10 different consumer products were still on offer online even though they had been recalled in 2012 and 2013. These included cameras, televisions, dishwashers, electric ranges and office chairs that could cause hazards such as fire, burn, expelled parts or skin irritation. See OECD, 2016.

[20] Australian Competition and Consumer Commission, 2014, Future activities: Online sales, presentation made at International Product Safety Week 2014, Brussels, 19 June.

[21] OECD, 2016.

[22] Ibid.

[23] Voluntary agreements were signed between European business associations and the European Commission to improve toy safety, and there is cooperation between the European Union and the United States on the issue (see https://ec.europa.eu/growth/sectors/toys/safety_en, accessed 24 April 2018).

24. In many instances, consumers tend to buy products in devious markets, a common situation in developing countries due to factors such as lack of information and limited purchasing power. For instance, toys are low value added products that consumers often simply dispose of, unaware of recalls or of the consequences of such waste in the environment. The dumping of non-necessarily safe products in these countries is commonly found in many jurisdictions.[24]

25. Consumers are not aware that these products represent a danger to their safety, as they might not show any evident hazardous features.[25] Hence, the need for policy coordination on how to deal with hazardous products internationally, particularly taking into consideration realities in developing countries.

26. Previous UNCTAD work with countries of the Association of Southeast Asian Nations (ASEAN)[26] in 2016 found the following:

(a) Except for Singapore, minimum safety standards set by consumer protection general laws for a wide range of household consumer products and services do not exist, other than for food, subject to specific law;

(b) Except for Malaysia, general consumer laws do not provide for a general product safety requirement requiring all consumer goods to be reasonably safe;

(c) There are few product liability laws providing redress to consumers who have suffered harm from unsafe goods, despite collective redress mechanisms introduced in five ASEAN countries, including United States-style class-action regimes in Indonesia and Thailand;

(d) There is limited data collection and sharing on recalls of consumer goods (except in Viet Nam, since 2014);

(e) There is insufficient inter-agency cooperation and coordination on safety-related measures, nationally and across borders.[27]

27. Other developing countries may face similar challenges, including in the enforcement of existing product safety regulations.

IV. Consumer product safety frameworks

A. General safety requirements

28. One of the most effective means of ensuring safer consumer products is to implement mandatory general safety requirements for national and imported goods. In line with A/RES/70/186, section V, paragraph 17, a general product safety requirement provides for the responsibility of producers to supply a safe product, usually one that is "reasonably" safe.

[24] See for example, http://allafrica.com/stories/201306031116.html (accessed 24 April 2018).

[25] See O Osibanjo and IC Nnorom, 2007, The challenge of electronic waste (e-waste) management in developing countries, *Waste Management and Research*; IC Nnorom and O Osibanjo, 2008, Overview of electronic waste (e-waste) management practices and legislations, and their poor applications in the developing countries, *Resources, Conservation and Recycling*, 52(6):843–858.

[26] Except Singapore, all ASEAN member States are developing countries.

[27] UNCTAD and ASEAN, 2015, Product safety and labelling: Project on strengthening technical competency for consumer protection in ASEAN, available at http://aadcp2.org/wp-content/uploads/Product-Safety-Labelling-Module-Final-21Dec15.pdf (accessed 24 April 2018).

29. This does not mean that the producer is expected to supply a product that is free from all risk – the expectation is that the product is either free of any risk or minimum risk.[28] For example, the Malaysian Consumer Protection Act (1999) prescribes a general safety requirement that covers the following obligations to businesses: the manner in which and purposes for which a product is being marketed; the get-up of the product; the use of any mark in relation to the product; and the instructions or warnings in respect of the keeping, use or composition of the product.[29]

B. Standards

30. When the law does not provide for setting general product safety requirements,[30] the minimum standards for the consumer safety of specific goods must be established by consumer protection agencies and/or product safety authorities, depending on the jurisdiction. Such safety standards may relate to the composition, presentation, labelling and instructions for use. They could also relate to the testing of goods during or after manufacture or processing.

31. Through mandatory safety standards and even voluntary ones, manufacturers and retailers are provided with essential information on what is required for a product to be safe. The International Organization for Standardization (ISO) has been developing standards on the safety of consumer products. A large proportion of all national standards implemented around the world are derived from ISO documents. The Organization relies on the expertise of industry representatives to develop an industry standard. The first step is for an industry to communicate the need to develop a standard to the established national ISO member institution. Some of these ISO members can be government bodies or private institutions, depending on the jurisdiction.[31]

32. Industry standards are the cornerstone of consumer product safety standards. As businesses deepen their experiences in the manufacture of consumer products, their knowledge of the possible risks and hazards also increases. Thus, consumer protection agencies and product safety authorities encourage businesses to develop voluntary standards and to comply voluntarily with product safety standards to help protect consumers from unreasonable risks of injury. For instance, the United States Consumer Product Safety Commission participates in many voluntary standards committees and assists firms in determining whether a product follows applicable voluntary safety standards. This practice has been useful to the Commission's staff in its preliminary determination of whether a certain product presents a substantial product hazard under section 15 of the United States Consumer Protection Safety Act (1972).[32]

33. In jurisdictions where corporate social responsibility is noticeable, voluntary standards addressing every type of product on the market are common[33] and are considered industry best practices or industry consensus standards.[34]

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[28] According to directive 2001/95/EC of the European Parliament and the Council of 3 December 2001 on product safety, "safe product" shall mean any product which, under normal or reasonably foreseeable conditions of use, including duration and, where applicable, putting into service, installation and maintenance requirements, does not present any risk or only the minimum risks compatible with the product's use, considered to be acceptable and consistent with a high level of protection for the safety and health of persons....".

[29] See https://mystandard.kpdnkk.gov.my/mystandard_portal2014/document/akta_perlindunganpengguna1999.pdf (accessed 24 April 2018).

[30] See directive 2001/95/EC of the European Parliament and the Council of 3 December 2001 on product safety, article 2.

[31] ISO, 2017, How we develop standards, available at https://www.iso.org/developing-standards.html (accessed 24 April 2018).

[32] Cornell Law School Legal Information Institute, 2006, 16 CFR 1115.8: Compliance with product safety standards, available at https://www.law.cornell.edu/cfr/text/16/1115.8 (accessed 24 April 2018).

[33] Voluntary standards exist for hundreds of consumer products, ranging from go-karts to cribs. Industry relies on these standards when designing their products and in litigation, often pointing to their

34. Industries are learning the value of consumer trust.[35] Hence, industry self-regulation initiatives are crucial to safeguard consumer protection legitimate interests and complement consumer laws and regulations: They should be coherent with government policies so that they may enhance consumer protection. OECD has examined the contribution of industry self-regulation to consumer protection and provided insights about the factors that shape the success of these initiatives: the strength of the commitments made by participants, the industry coverage of the industry self-regulation, the extent to which participants adhere to the commitments and the consequences of not adhering.[36]

C. Liability laws

35. Consumer product safety legislation is directly related to businesses' liability for the products that are placed on the market.[37] Considering the supply chain, manufacturers, distributors and retailers are all liable for products placed and sold on the market. Within domestic boundaries, laws have traditionally entitled consumers to compensation and/or other relief measures if physically harmed or if they suffer other losses from unsafe goods. Ideally, the possibility of consumers bringing such claims to court or of using other dispute resolution mechanisms is also an incentive for suppliers to provide safer products. This is, however, conditioned by consumers' awareness of their rights regarding product safety, available information about the existing protection of their economic interests and their ability to pursue these claims. Both contract law and tort law are relevant in these cases. Contract law[38] applies to consumers' agreements that have a direct link with a supplier – typically, the retailer – as consumers will usually reach out to the product's seller, the closest provider in a supply chain.

D. Corrective measures: Recalls

36. Some countries such as Australia and Brazil provide specific recall policies[39] as corrective measures for businesses to withdraw unsafe products from the market, also informing consumers. Businesses are then bound to recall a product once the minimum risk of harm is detected.[40]

37. Australia has its own product safety system, involving consumers, suppliers and government agencies in the process. The powers are divided among agencies according to their expertise covering different categories of products (including foods, drugs and

compliance in defending product designs. While standards have the potential to mitigate product hazards, they are minimum requirements. As such, certain product hazards may not be addressed. See C Pollack-Nelson and S Waters Deppa, 2009, The role and limitations of voluntary standards in consumer product safety, *Proceedings of the Human Factors and Ergonomics Society Annual Meeting* 53(9):563–567.

[34] Promotional Products Association International, 2017, Product responsibility best practices: Voluntary standards, available at http://www.ppai.org/media/1784/pr_bp_mandatoryvsvoluntarystandards.pdf (accessed 24 March 2018).

[35] SAI Global, n d., The consumer trust index: What your organization needs to know about trust, available at https://m.comms.saiglobal.com/res/saiglob_mkt_prod1/35e4a9a13298fa9d606d7627afbff6ab.pdf (accessed 24 April 2018).

[36] See OECD, 2015, Industry self-regulation: Role and use in supporting consumer interests, 2015, DSTI/CP(2014)4/FINAL.

[37] Modern product liability law rests on six basic assumptions, some of which relate to consumer preferences and others to sources of market failure. See A Schwartz, 1992, The case against strict liability, *Fordham Law Review*, 60(5):819–842.

[38] Standard form contracts and privity of contracts would be the most common means to address this problem through contract laws. See UNCTAD, 2017.

[39] If a product or service presents a safety risk or does not comply with a mandatory standard or ban, it may need to be recalled. These products must be withdrawn from the market by the business concerned, under the surveillance of public authorities.

[40] See http://portal.mj.gov.br/recall/ (accessed 24 April 2018).

chemicals).[41] Products outside any of the above-mentioned categories are classified as general consumer products and are monitored by the Australian Competition and Consumer Commission. The Commission monitors measures related to product safety such as voluntary actions by suppliers, government laws that give incentives for producing safe products, restrictions on selling unsafe products, and information and education that enable consumers to choose safe products and use them safely. The Australian system counts on the engagement of businesses, consumers and regulators to identify and manage the risk of any unsafe products. The cooperation of consumers and suppliers is essential in helping identify hazardous products that may need regulation.[42]

38. The recall system of Brazil is provided in the Brazilian Consumer Protection Legislation recorded in the Consumer Protection Code of 1990.[43] The Brazilian recall system has both offline and online procedures, which are monitored and performed by consumer protection authorities, the metrology authority, the health authority, as well as other regulatory authorities (such as transport), businesses, consumers and the judiciary. The consumer protection authorities also conduct investigations, which may lead to a compulsory recall by businesses. With one of the strictest recall legislations in the world,[44] Brazil is also internationally engaged in consumer health and safety, taking part in investigations, campaigns and other cooperation initiatives within the Southern Common Market[45] and the Organization of American States.

39. The European Union has comprehensive and detailed legislation related to consumer product safety.[46] In the European Union system, member States are responsible for enforcing product safety laws and conducting market surveillance.[47] General requirements for the safety of products are set out also in sector-specific legislation. Voluntary standards are also drawn up by the European standardization organizations, and the references to European product standards are published in the *Official Journal* of the European Union. The European Commission, on a per-case basis, can adopt a formal decision requiring member States to ban products that pose a serious risk, or recall or withdraw products from the market.[48] Likewise, member States need to inform the European Commission and other member States about the products they find in their markets that pose a risk to the health and safety of consumers, and which are available in other European Union markets. This reporting is done through the rapid alert system for non-food dangerous products, also known by its acronym RAPEX.[49]

E. Consumer awareness and education

40. Consumer information and education is highlighted in the general principles of the guidelines, section III, paragraph 5 (e) and (f), as one of the legitimate needs which the guidelines are intended to meet, together with the protection from hazards to consumers' health and safety and with developing consumer protection culture, namely the recall culture in Member States. Since consumer information and awareness raising are instrumental for effective consumer protection, this is also why many product safety laws establish the need to inform consumers on this topic to sensitize them to product safety

[41] See https://www.productsafety.gov.au/about-us/who-regulates-what (accessed 24 April 2018).

[42] See https://www.productsafety.gov.au/product-safety-laws/safety-standards-bans/mandatory-standards (accessed 24 April 2018).

[43] http://www.planalto.gov.br/ccivil_03/Leis/L8078.htm (accessed 24 April 2018).

[44] Despite the country's engagement in the field, its recalls mostly include high-benefit products such as vehicules and machines, not many toys recalls.

[45] See http://www.bakermckenzie.com/en/insight/publications/2017/11/recalls-specific-new-regulation (accessed 24 April 2018).

[46] See http://ec.europa.eu/consumers/eu_consumer_policy/our-strategy/index_en.htm (accessed 24 April 2018).

[47] See http://ec.europa.eu/consumers/consumers_safety/index_en.htm (accessed 24 April 2018).

[48] See https://ec.europa.eu/info/departments/justice-and-consumers_en (accessed 24 April 2018).

[49] See http://ec.europa.eu/consumers/consumers_safety/safety_products/rapex/index_en.htm (accessed 24 April 2018).

awareness and alerts,[50] regardless of whether they are the direct or first purchasers of the product that is being recalled. The need to inform all possible victims of hazardous products or services (depending on the legislation) also applies to possible bystanders, as any person can be a victim of a hazardous product.[51]

F. A case study in the toy industry

41. See box 2 below regarding the Argentinean experience that includes cooperation with United States authorities in the toy market.

Box 2
Argentina

In Argentina, Law No. 24240 of Consumer Protection and its Regulatory Decree No. 1798/94 govern consumer product safety.

In March 2017, Kids II Far East Limited presented a voluntary recall of Oball Rattles supplied by Topco Marketing Ltd. before the National Directorate for Consumer Protection of Argentina.

Since January 2016, approximately 504 affected Oball Rattles have been sold in Argentina. The rattles were manufactured before 21 October 2016. Kids II received complaints because the transparent plastic rattle chamber of the toy did not remain closed. When this occurred, there was a risk that the small parts could be released, posing a risk of suffocation for children under three years of age.

The firm published advertisements informing consumers about the recall programme of the product and instructing them to immediately stop using the product and contact the company to obtain a refund (by phone or courier, cost of the product and so forth).

As an example of the importance of international cooperation, the same recall was registered with the United States Consumer Product Safety Commission as follows:[52]

- Name of product: Oball Rattle
- Hazard: The clear plastic disc on the outside of the Oball Rattles can break, releasing small beads and posing a choking hazard to young children.
- Remedy: Refund
- Recall date: 2 March 2017
- Units: about 680,000 (in addition, about 17,000 were sold in Canada)

42. Apart from enforcement actions, there are several measures that businesses and regulators alike can take. As illustrated in the aforementioned case study, international cooperation and the exchange of information play a major role in preventing and ceasing the distribution of hazardous products on the market worldwide. The guidelines detail key measures that Member States and businesses must follow to protect the safety of consumers.

V. International cooperation

43. In recent years, efforts across regions and at the bilateral, regional and multilateral levels have been a priority for product safety regulators. There are regional initiatives in the context of regional organizations' frameworks such as the European rapid alert system for

[50] See https://ec.europa.eu/consumers/consumers_safety/safety_products/rapex/alerts/?event=SafeProductsOnline&lng=en; https://www.consumerprotection.govt.nz/tradingstandards/product-safety/keeping-kids-safe/; and http://www.justica.gov.br/news/senacon-lanca-site-de-recall-no-27o-aniversario-do-cdc.2 (accessed 24 April 2018).

[51] See http://www.hfw.com/downloads/HFW-Aerospace-Bulletin-0713.pdf (accessed 25 April 2018).

[52] https://www.cpsc.gov/Recalls/2017/kids-ii-recalls-oball-rattles# (accessed 25 April 2018).

non-food products;[53] the ASEAN recalls portal;[54] the consumer health and safety network of the Organization of American States;[55] and the cooperative engagement framework established between the United States Consumer Product Safety Commission, Health Canada and the Consumer Protection Federal Agency of Mexico.

44. Across continents, the Asia–Pacific economic cooperation product safety incident information sharing system and the rapid alert system for non-food products–China system, which enables the transmission of data on unsafe products between the European Commission and Chinese authorities,[56] are also important mechanisms. These schemes provide a framework for cooperation, promoting an exchange of information on unsafe products and experiences of verification.

45. At the global level, OECD has been active through the Working Party on Consumer Product Safety and the global efforts made such as the global recall portal.[57]

VI. Issues for discussion and a possible role for UNCTAD

46. The forthcoming session of the Intergovernmental Group of Experts may wish to address the following issues:

(a) The UNCTAD World Consumer Protection Map can serve as basis for the exchange of contact information of consumer protection authorities and on consumer product safety. How can understanding on consumer product safety be further enhanced?

(b) Other than the sharing of best practices in consumer product safety, what other areas should be considered at the international level?

(c) How can UNCTAD support ongoing regional and global efforts in strengthening consumer product safety?

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[53] See https://ec.europa.eu/consumers/consumers_safety/safety_products/rapex/alerts/?event=viewProduct&reference=A12/0867/17 (accessed 24 April 2018).

[54] See http://www.aseanconsumer.org/accp/index.php?r=portal/article&id=3 (accessed 24 April 2018).

[55] See https://www.sites.oas.org/rcss/en/Pages/default.aspx (accessed 24 April 2018).

[56] OECD, 2016.

[57] See https://globalrecalls.oecd.org/front/index.html#/recalls (accessed 24 April 2018).